

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION

BENJAMIN EUGENE WILLIAMS,)
)
Plaintiff,)
)
vs.) 4:09-CV-1176-IPJ-RRA
)
CITY OF GUNTERSVILLE, et al.,)
)
Defendants.)

ORDER

The magistrate judge filed a report and recommendation on December 10, 2009, recommending that the plaintiff's claims against the City of Guntersville, Chief Jim Peterson, and Sgt. Grady Baugh be dismissed. It was further recommended, however, that the plaintiff's claim against Officer Phillip Smith for the excessive use of force be referred to the magistrate judge for further proceedings.

The plaintiff filed objections to the report and recommendation on December 14, 2009. (Doc.#20) The plaintiff objects to the recommendation that his claim that Sgt. Baugh delayed or denied him adequate medical treatment be dismissed.

In his objections, the plaintiff elaborates on the claim he made in his amended complaint, and includes details that were in an earlier letter to the court. (Doc.#5) The plaintiff also has submitted a document which shows that he was treated at the Marshall Medical Center for "Neck/back/chest strain" on June 15, 2009. Although the document was not attached to an amended complaint and does not reference a specific incident, the plaintiff states in his letter to the court that he was taken to the ER at Marshall North Guntersville for treatment due to an incident on May 19, 2009. (*Id.*) The plaintiff now states that Sgt. Baugh knew of the assault on him by Officer Smith immediately after it happened, but denied him medical treatment for twenty-seven days. (Doc.#20 p.2).

The plaintiff's statements regarding the Sgt. Baugh claim are vague. The plaintiff does not state that he requested medical treatment according to the procedure used in the jail, or that the request was denied. He also fails to state specifically what treatment he needed or when it was needed. The court will allow the plaintiff to amend his complaint one more time, to provide the essential details supporting his claim that Sgt. Baugh denied him medical treatment for twenty-seven days, as well as the damages the plaintiff suffered as a result.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the magistrate judge's recommendation is ACCEPTED as to the dismissal of the City of Guntersville and Chief Jim Peterson, and as to the recommendation that the excessive use of force claim against Officer Smith proceed to require a special report from that defendant. The medical claim against Sgt. Baugh will proceed, at least long enough to allow the plaintiff to state a viable medical claim against Sgt. Baugh; the plaintiff is ORDERED to amend his denial of medical care claim against Sgt. Baugh within fourteen (14) days from today as set out above.

Wherefore, all of the plaintiff's claims except his claims against Sgt. Baugh and Officer Smith are DISMISSED pursuant to 28 U.S.C. § 1915A(b). It is further ORDERED that the claims of excessive force against Officer Smith and denial of adequate medical care against Sgt. Baugh are REFERRED to the magistrate judge for further proceedings consistent with this order.

DATED this 20th day of January 2010.



INGE PRYTZ JOHNSON
U.S. DISTRICT JUDGE